IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1973

No. 73-1471

UNITED STATES OF AMERICA AND FEDERAL COMMUNICATIONS COMMISSION, Petitioners

v.

NEW JERSEY STATE LOTTERY COMMISSION, Respondent

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

STATEMENT IN LIEU OF BRIEF OF THE STATE OF NEW HAMPSHIRE, INTERVENOR, IN SUPPORT OF THE NEW JERSEY STATE LOTTERY COMMISSION

Warren B. Rudman
Attorney General
David H. Souter
Deputy Attorney General
State House Annex
Concord, New Hampshire 03301

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The court below granted New Hampshire's motion to intervene in this proceeding. New Hampshire's motion to intervene was grounded on the following facts. New Hampshire operates a sweepstakes and lottery program under the provisions of New Hampshire

Revised Statutes Annotated 284:21-a - 21-v, as amended. This program is in essential respects similar to the New Jersey program so far as concerns the applicability of 18 U.S.C. 1304 and the regulations of the Federal Communications Commission to the broadcasting of information having news value relating to the operation of the program. The Memorandum Opinion and Order of the Commission which is the subject of this proceeding would, if sustained, constitute clear precedent and statement of position for the Commission in dealing with broadcasts of direct concern to the State of New Hampshire in the operation of its program. New Hampshire submits, as it has done below, that the Commission's Memorandum Opinion and Order are based in the first instance on a mistaken interpretation of 18 U.S.C. 1304 and would, if given effect, result in

substantial detriment to the legitimate interests of New Hampshire.

New Hampshire is familiar with the reasons advanced on behalf of the Respondent New Jersey State Lottery Commission's position in this matter. New Hampshire joins in Respondent's statement of these reasons and submits that the judgment of the United States Court of Appeals for the Third Circuit should be affirmed.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE,
Intervenor

Warren B. Rudman
Attorney General

David H. Souter
Deputy Attorney General

Counsel for Intervenor

September 18, 1974